



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE ENROLLED BILL ANALYSIS

DRAFT

Date Amended	Enrolled	Bill No:	AB 2591
Tax:	Sales and Use Special Taxes Property Tax	Author:	Keene
Related Bills:			

BILL SUMMARY

This bill would require certain state agencies, including the Board, to prepare annual reports identifying accounts receivable that are valid and collectible, as defined, for 180 or more days and efforts to collect these accounts. This analysis is limited to the effect on the Board's reporting requirements.

ANALYSIS

Current Law

Currently, the Board is authorized to use various collection actions to effect the collection of delinquent taxes, including but not limited to: bank levies, wage garnishments, tax liens, seizure of assets, offsets, and court actions. The Board uses these tools consistent with its established policies and procedures.

Existing law, Chapter 4.3 (commencing with Section 16580) of Part 2 of Division 4 of Title 2 of the Government Code, known as the Accounts Receivable Management Act, authorizes each state agency to sell part or all of its accounts receivable to private debt collectors under specified conditions. One of those conditions is that a debt that has been contested can not be assigned or sold. Each state agency is also required to consult with the Franchise Tax Board or other state agencies which have established an effective accounts receivable collection system.

Additionally, Chapter 3 (commencing with 13940) of Part 4 of Division 3 of Title 2 of the Government Code allows the Board to make an application for discharge from accountability (discharge) to relieve the agency of the responsibility for collection, thereby removing the item from the accounts receivable.

Proposed Law

This bill would add Section 13292.5 to the Government Code to require the Board, Franchise Tax Board, State Lands Commission, Department of General Services, Department of Motor Vehicles, Department of Real Estate, and the Department of Corporations to submit an annual report to the Department of Finance (DOF) detailing the status of the agency's liquidated and delinquent accounts, as defined, and efforts to collect these accounts during the previous fiscal year. The reports would identify those receivables that are valid and collectible and would only be prepared if sufficient existing resources are available. For the purposes of this bill, "valid" is defined as a receivable

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that is due and payable and for which there is no known disagreement about the amount of the claim at the time it was established. "Collectible" means a receivable that is due and payable and for which collection has not been deferred by any other provision of law.

The report would include a summary of the total of all of the following:

- Total number and aggregate dollar amount of liquidated and delinquent accounts.
- Liquidated and delinquent accounts, by total number and aggregate dollar amount, that were not included in the annual report for the immediately preceding fiscal year.
- Aggregate beginning balance and aggregate ending balance of each liquidated and delinquent account.
- Aggregate dollar amount of moneys paid on liquidated and delinquent accounts.
- Total amount and total number of liquidated and delinquent accounts that have been discharged from accountability.
- Total dollar amount of liquidated and delinquent accounts turned over to private collection agencies and total amount collected by those agencies for the fiscal year that is the subject of the report.
- A listing of the liquidated and delinquent accounts by specified time periods, which, at a minimum, shall identify the total number and aggregate dollar amount of liquidated and delinquent accounts that are unpaid for 180 or more days after the obligation was first due.

The state agencies would be required to submit the accounts receivable report to the DOF by October 31st of each year. The DOF would then submit their report to the Legislature no later than February 28 of each fiscal year.

This bill would be effective January 1, 2007 and would be inoperative July 1, 2010, with a repealed date of January 1, 2011.

Background

Due to its effective tax administration, the Legislature and other state agencies who have contracted with the Board have given the Board the responsibility for administering various taxes and fees. Currently, the Board administers over 20 different tax and fee (tax) programs. As indicated in the Board's 2004-05 Annual Report, those programs generated \$49.95 billion in revenue at a cost of \$209.04 million – only 68 cents for every \$100 of revenue collected.

Despite the best of efforts, certain tax debts are not readily collectable. After a liability has become due and payable, a taxpayer may avail themselves of several alternatives that could result in the aging of the receivable. For example, taxpayers may enter into installment payment agreements with the Board. Some of these payment plans are short-term (under twelve months), others are long-term, and the result is a cooperative resolution of the receivable. Other taxpayers may file a bankruptcy petition which imposes an automatic stay of collection actions. Still others file a "late protest," which is an administrative process that allows a taxpayer to file a late appeal which may result in the deferral of collection actions.

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In general, collection of accounts receivable progress through various automated and manual collection processes. After collection efforts have been exhausted and it is determined that it is no longer cost effective to pursue collection of an outstanding liability, a discharge recommendation is initiated as provided in the Government Code and further specified in the State Administrative Manual (SAM) section 8776.6. Requests for discharge from accountability are submitted to the State Controller's Office for review, and those accounts with balances over \$5,000 may be reviewed by the Attorney General's office.

The SAM is a resource available to state agencies that covers statewide policies, procedures and information. Section 8776.2 of the SAM provides a definition of a valid account receivable that is similar to the definition used in this bill. Additionally, the SAM explains that valid accounts receivables are divided into "current" and "deferred." In short, a current receivable is expected to be collected within a year, while a deferred receivable is expected to be outstanding for over a year.

COMMENTS

1. **Sponsor and Purpose.** The sponsor of the bill is the California Association of Collectors. The purpose is to provide the Legislature with information on the total amount of money owed to the State that has not been collected in the previous fiscal year. According to the author's office, the information in the report would allow the Legislature to consider how to better manage and collect the debt.
2. **Key amendments.** The **August 29, 2006 amendments** added an additional state agency that needs to prepare a report. The **August 28, 2006 amendments** specified six state agencies that need to produce the required report. In addition, the account receivable report is to identify valid and collectible accounts, and the agencies shall only provide the report if they have sufficient existing resources. The **August 7, 2006 amendments** prohibited a state agency from contracting with a private collection agency to prepare the report. The **June 20, 2006** amendment was a technical non-substantive amendment. The **May 26, 2006 amendments** specified that each state agency is to submit a report to the DOF no later than October 31 of each year, until July 1, 2010. The DOF would then be required to submit a report to the Legislature by February 28 of each year, until July 1, 2010, based on the state agency reports. The statute is inoperative as of July 1, 2010, and is repealed as of January 1, 2011. The **April 26, 2006** amendments added a coauthor.
3. **What accounts receivable would the Board include in the report?** As stated previously, the Board collects various taxes and fees, so all of these may be subject to the reporting requirements. Those tax and fee accounts that are liquidated and delinquent, meaning they are owed but unpaid for 180 or more days, would be reported. Of those accounts reported, the Board must identify which ones are valid and collectible. A valid account would be those accounts that are due and payable and have no known disagreement about the amount owed. The Board would not consider a valid account to include, but not be limited to, those accounts accepted as a "late protest", an innocent spouse request, or a non-partner claim. The language is broad enough that it may exclude tax protestors from being considered a valid account. A collectible account would be those accounts that are due and

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payable and have not been deferred by any other provision of law. The Board would not consider an account in bankruptcy status as a collectible account. Since “deferred” was not defined in this bill it is unclear if the author intended SAM section 8776.2 to provide guidance, or only deferrals provided in state or federal statute.

4. **Efforts made by the agency to collect these accounts.** The bill requires the agencies to report the efforts made to collect the delinquent accounts but does not specify the detail needed to comply with this requirement. If the description of efforts to collect is general in nature then there would be absorbable costs to prepare an annual report. However, if the description must be detailed – an account by account listing of collection efforts – then implementation costs could be substantial.
5. **What fiscal years are to be included in the Board’s report?** If the bill becomes law, the first fiscal year included in the report would be the 2006-07 and would be due to the DOF no later than October 31, 2007. As for the final report, it is unclear whether the fiscal year 2009-10 is intended to be the final fiscal year of the report, since the bill becomes inoperative on July 1, 2010, a day after the end of that fiscal year. It would appear that the Board would not be required to submit a report to the DOF by October 31, 2010, since the statute would be inoperative. The author may wish to clarify which fiscal year will be in the final report by either changing the inoperative date to November 1, 2010, or specifying the final fiscal year.

COST ESTIMATE

The Board's cost to prepare annual aged accounts receivable reports would be dependent on the amount of detail required by the DOF to report on the efforts to collect liquidated and delinquent accounts.

REVENUE ESTIMATE

This bill would not affect the revenues collected for the state by the Board.

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